



U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 SIXTH AVENUE  
SEATTLE, WASHINGTON 98101

October 21, 1986

REPLY TO  
ATTN OF:

M/S 613

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

William D. Maer, Attorney  
Heller, Ehrman, White & McAuliffe  
4100 First Interstate Center  
999 Third Avenue  
Seattle, Washington 98104

Re: In re Pacific Wood Treating Corporation,  
RCRA Docket No. 1085-09-26-3008P

Dear Bill:

Enclosed is a signed version of a Consent Agreement and Final Order for the above-referenced matter. Please have the agreement signed on page 5 of the document, and return it to me within seven (7) days of receipt of this agreement. I will then forward it to Mr. Findley for his signature, and send you a conformed copy after it is filed with the Regional Hearing Clerk.

If you have any comments or questions in this matter, please contact me at 442-1191.

Sincerely,

D. Henry Elsen  
Assistant Regional Counsel

Enclosure

11/21/86  
effective date

004 24 1986

10/21/86



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2  
3  
4  
5  
6 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
7 Region 10  
8 1200 Sixth Avenue  
9 Seattle, Washington 98101

10 IN THE MATTER OF: )

11 Environmental Protection Agency, )

12 Complainant, )

13 v. )

14 Pacific Wood Treating Corporation, )

15 Respondent. )

RCRA Docket No. 1085-09-26-3008P

CONSENT AGREEMENT AND FINAL ORDER

16  
17  
18 A Complaint and Compliance Order was issued against the  
19 Respondent, Pacific Wood Treating Corporation ("PWT"), in this  
20 action, pursuant to Section 3008 of the Resource Conservation and  
21 Recovery Act ("RCRA"), 42 U.S.C. § 6928, et seq. The Complaint  
22 and Compliance Order was issued on September 20, 1985, and alleged  
23 violations of RCRA and accompanying regulations, as adopted by  
24 the state of Washington.

25 In full and complete settlement of the matters alleged  
26 in the September 30, 1985 Complaint and Compliance Order, and  
27

28 CONSENT AGREEMENT AND ORDER - Page 1

1 pursuant to 40 CFR § 22.18, the following Consent Agreement and  
2 Final Order is agreed to by all parties, and entered against  
3 Respondent Pacific Wood Treating Corporation.

4  
5 I. FINDINGS OF FACT

6 1. Respondent owns and operates the Ridgefield Brick  
7 and Tile land disposal site, located at 3510 N.W. 289th Street,  
8 Ridgefield, Washington. The site is a hazardous waste landfill  
9 consisting of approximately three quarters of an acre, on the  
10 outskirts of Ridgefield, Washington. In this document, the site  
11 will be referred to as the PWT/RBT facility or the landfill.

12  
13 2. Respondent submitted a Part A hazardous waste permit  
14 application for the PWT/RBT facility to EPA on May 25, 1983. The  
15 application stated that hazardous waste disposed in the landfill  
16 was ash from the PWT wood-waste boiler plant contaminated with  
17 ash from incinerated hazardous waste and K001 (bottom sediment  
18 sludge from the treatment of wastewaters from woodpreserving  
19 processes that use creosote and/or pentachlorophenol), and through  
20 system upset D004 (arsenic). The hazardous waste was first  
21 received at the landfill in 1979, and was last received on Jan-  
22 uary 25, 1983.

23 3. The PWT/RBT facility is subject to the provisions  
24 of RCRA, including the Hazardous and Solid Waste Amendments of 1984,  
25 and the delegated state of Washington program, and to applicable  
26 regulations found at WAC 173-303, including the interim status  
27

standards found at WAC 173-303-400. Those standards incorporate by reference the interim status standards of 40 CFR Part 265, Subpart F through R.

4. Closure of the PWT/RBT facility was done by the Respondent between September 15, 1983 and January 16, 1984, under supervision of the Washington State Department of Ecology ("Ecology"), and pursuant to a closure plan submitted to Ecology by the Respondent. That closure did not provide for a ground-water monitoring system which met the requirements of 40 CFR Part 265, Subpart F for landfills. The plan also did not include provisions which addressed the regulatory requirements for post-closure care or post-closure financial assurance.

5. Leachate from the landfill, a hazardous and dangerous waste by definition, is discharged from the toe drain at the landfill. This waste is not managed in accordance with the generator requirements of 40 CFR Part 262.12(c), nor does Respondent have a permit to dispose of hazardous waste on site as required by 40 CFR § 270.1(c).

#### CONCLUSIONS OF LAW

6. Based upon the foregoing, Respondent is found to be in violation of the following federal regulations, which are incorporated by reference in WAC 173-303-400:

a. 40 CFR § 262.10(b), regarding recordkeeping, and/or the land disposal requirements of 40 CFR Parts 264, 265 or

1 270, regarding the management of leachate collected from the  
2 landfill (see the comment following 40 CFR § 265.310(d)(2) regard-  
3 ing the treatment of leachate);

4  
5 b. 40 CFR §§ 265.90-94 and 265.310(b), which  
6 requires any land disposal facility to maintain a groundwater  
7 monitoring system in full compliance with 40 CFR Part 265, Subpart  
8 F during the closure and post-closure period for a landfill;

9 c. 40 CFR § 265.145, which requires the establish-  
10 ment of documents demonstrating compliance with the financial  
11 assurance requirements for post-closure care of the landfill.

12  
13 AGREEMENT

14 7. Respondent admits the jurisdictional allegations of  
15 this Agreement, and admits the Findings of Fact and Conclusions  
16 of Law contained in this Agreement.

17  
18 8. Respondent acknowledges the issuance of the final  
19 order attached to this Agreement, including the assessment of  
20 civil penalties therein. Respondent further acknowledges that  
21 any payment of any penalties pursuant to this Agreement and Final  
22 Order does not relieve the Respondent from its legal duty to  
23 comply with the requirements of the Final Order, nor would the  
24 payment of penalties prevent the enforcement of the Compliance  
25 Order Activities of this Final Order, nor would the payment of  
26 the assessed penalties relieve it of its duty to comply with  
27 applicable provisions of RCRA and applicable provisions of state

1 of Washington laws and regulations governing the disposal of  
2 hazardous (dangerous) wastes.

3 9. Respondent waives any right to a hearing on, or  
4 appeal from this Agreement and Final Order. However, the parties  
5 recognize and agree that Respondent does not waive any rights it  
6 may have with respect to future application of EPA or state regu-  
7 lations outside of this Consent Agreement and Order.  
8

9  
10 DATED: \_\_\_\_\_

\_\_\_\_\_  
For Respondent Pacific Wood  
Treating Corporation

11  
12  
13 DATED: 10/27/86 \_\_\_\_\_

\_\_\_\_\_  
For Complainant Environmental  
Protection Agency

14  
15 FINAL ORDER  
16

17 1. Based upon the foregoing Findings of Fact and  
18 Conclusions of Law, which are incorporated herein by reference,  
19 Respondent Pacific Wood Treatment Corporation is hereby found in  
20 violation of the delegated state of Washington Dangerous Waste  
21 Statute, and accompanying regulations.  
22

23 PENALTY ASSESSMENT

24 2. Respondent is assessed a civil penalty of fifteen  
25 thousand dollars (\$15,000) for these violations. No interest  
26 shall be charged on this amount.  
27

1           3. The payment of the assessed penalty is suspended  
2 and deferred to October 30, 1987, at which time they shall become  
3 due and payable without further notice or proceedings UNLESS the  
4 activities described in paragraphs 5 through 7 are performed  
5 in a timely fashion. If the activities described in paragraphs 5  
6 through 7 are performed in a timely fashion, the assessed penalty  
7 shall be wholly excused automatically without further notice and  
8 proceedings.

9           4. The assessed penalty shall become immediately due,  
10 notwithstanding paragraph 3, if any of the described activities  
11 do not occur on the dates described herein.  
12

13                   COMPLIANCE ORDER ACTIVITIES  
14

15           5. Within thirty (30) days of the date of this Order,  
16 Respondent shall submit documentation demonstrating the lawful  
17 management and disposal of leachate collected from the landfill  
18 known as the Ridgefield Brick and Tile Company (RBT landfill or  
19 landfill). This documentation shall demonstrate full compliance  
20 with 40 CFR Part 262 or 40 CFR § 261.5(g) through the establishment  
21 of procedures and practices for the proper off-site disposal of  
22 any leachate produced or collected from the landfill.

23           6. Within ninety (90) days from the date of this Order,  
24 the Respondent shall demonstrate compliance with the financial  
25 assurance requirements of 40 CFR Part 265, Subpart H, verifying  
26 compliance with the post closure requirements for financial  
27

1 assurance, or, if such compliance is impossible despite the best  
2 efforts of the Respondent, shall submit appropriate financial  
3 records and a proposed schedule for the establishment of a  
4 trust fund to ensure compliance with the Subpart H regulations.

5  
6 7. Within ninety (90) days of the date of this order,  
7 the Respondent shall submit a 40 CFR Part 265, Subpart G closure  
8 plan and schedule to EPA which shall address the installation of  
9 a groundwater monitoring system at the landfill which is in  
10 compliance with 40 CFR Part 265, Subpart F, and which would  
11 provide sufficient hydrogeological information to satisfy the  
12 requirements of 40 CFR § 270.14(c). This plan shall include  
13 provisions which will ensure that the system shall be monitored  
14 for all applicable parameters of 40 CFR §§ 265.92 and 93 and  
15 pentachlorophenol and arsenic on a quarterly basis. The plan  
16 shall also provide for a soil sampling plan to determine whether  
17 any releases of hazardous or dangerous waste from the former  
18 leachate collection system has occurred. This closure plan shall  
19 be reviewed and approved by EPA and implemented by Respondent in  
20 accordance with the procedures of 40 CFR Part 265.

21 GENERAL PROVISIONS

22  
23 8. For each requirement described in paragraphs 5  
24 through 7, the Respondent shall file a signed statement which  
25 verifies the extent to which the conditions specified have or  
26 have not been met or fulfilled. These signed statements shall be



mailed to EPA within two business days of the due date described in the paragraphs.

9. By deferring penalties herein, the burden of proving that payment of those penalties remains deferred and suspended is hereby placed upon the Respondent.

10. By written submission of a stipulation by both parties, any date established in this Order may be modified.

11. All written submissions pursuant to this Order shall be made to:

Kenneth Feigner, Chief  
Waste Management Branch, M/S 533  
Environmental Protection Agency  
1200 Sixth Avenue  
Seattle, Washington 98101

12. This Order shall terminate upon the acceptance of a delisting petition by EPA at any time prior to the completion of the Order's provisions.

IT IS SO ORDERED, this            day of \_\_\_\_\_, 1986.

Charles E. Findley, Director  
Hazardous Waste Division  
EPA Region 10



U.S. ENVIRONMENTAL PROTECTION AGENCY  
REGION 10  
1200 SIXTH AVENUE  
SEATTLE, WASHINGTON 98101

November 26, 1986

RECEIVED

DEC 1 1986

HEARINGS CLERK  
EPA-REGION X

REPLY TO  
ATTN OF: M/S 613

William D. Maer, Attorney  
Heller, Ehrman, White & McAuliffe  
4100 First Interstate Center  
999 Third Avenue  
Seattle, Washington 98104-4011

Re: Pacific Wood Treating Corporation  
Docket No. 1085-09-26-3008P

Dear Mr. Maer:

Enclosed is a copy of the signed consent agreement and final order for this case. The original was filed with the Regional Hearing Clerk on November 24, 1986, and a copy was sent to Judge Nissen.

Please implement the agreement and order in strict accordance with the schedules as written. Any failure to implement the agreement will result in enforcement action, including assessment of the deferred penalties.

If you have further comments or questions on this matter, please telephone me at (206) 442-1191.

Sincerely,

D. Henry Elsen  
Assistant Regional Counsel

Enclosure

cc (w/encl.): Judge Nissen

RECEIVED

DEC 1 1986

HEARINGS CLERK  
EPA-REGION X

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 10  
1200 Sixth Avenue  
Seattle, Washington 98101

IN THE MATTER OF:

Environmental Protection Agency,

Complainant,

v.

Pacific Wood Treating Corporation,

Respondent.

RCRA Docket No. 1085-09-26-3008P

CONSENT AGREEMENT AND FINAL ORDER

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In full and complete settlement of the matters alleged in the September 30, 1985 Complaint and Compliance Order, and

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10 outskirts of Ridgefield, Washington. In this document, the site  
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17 ash from incinerated hazardous waste K001 (bottom sediment sludge  
18 from the treatment of wastewaters from woodpreserving processes  
19 that use creosote and/or pentachlorophenol), and through system  
20 upset D004 (arsenic). The hazardous waste was first received at  
21 the landfill in 1979, and was last received on January 25, 1983.

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23 of RCRA, including the Hazardous and Solid Waste Amendments of 1984,  
24 and the delegated state of Washington program, and to applicable  
25 regulations found at WAC 173-303, including the interim status  
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5. Leachate from the landfill, a hazardous and dangerous waste by definition, is discharged from the toe drain at the landfill. This waste is not managed in accordance with the generator requirements of 40 CFR Part 262.12(c), nor does Respondent have a permit to dispose of hazardous waste on site as required by 40 CFR § 270.1(c).

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6 recognize and agree that Respondent does not waive any rights it  
7 may have with respect to future application of EPA or state regu-  
8 lations outside of this Consent Agreement and Order.

9  
10 DATED: 5 November 1986 William D. Maer  
11 Attorney For Respondent Pacific Wood  
12 Treating Corporation

13 DATED: 10/30/86 D. Jan. Egan  
14 Attorney For Complainant Environmental  
15 Protection Agency

16 FINAL ORDER

17 1. Based upon the foregoing Findings of Fact and  
18 Conclusions of Law, which are incorporated herein by reference,  
19 Respondent Pacific Wood Treating Corporation is hereby found in  
20 violation of the regulatory provisions cited above in paragraph 6.

21 PENALTY ASSESSMENT

22  
23 2. Respondent is assessed a civil penalty of fifteen  
24 thousand dollars (\$15,000) for these violations. No interest  
25 shall be charged on this amount.

1           3. The payment of the assessed penalty is suspended  
2 and deferred to October 30, 1987, at which time they shall become  
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4 activities described in paragraphs 5 through 7 are performed  
5 in a timely fashion. If the activities described in paragraphs 5  
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17 any releases of hazardous or dangerous waste from the former  
18 leachate collection system has occurred. This closure plan shall  
19 be reviewed and approved by EPA and implemented by Respondent in  
20 accordance with the procedures of 40 CFR Part 265.  
21

#### 22 GENERAL PROVISIONS

23 8. For each requirement described in paragraphs 5  
24 through 7, the Respondent shall file a signed statement which  
25 verifies the extent to which the conditions specified have or  
26 have not been met or fulfilled. These signed statements shall be  
27  
28

1 mailed to EPA within two business days of the due date described  
2 in the paragraphs.

3  
4 9. By deferring penalties herein, the burden of  
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6 suspended is hereby placed upon the Respondent.

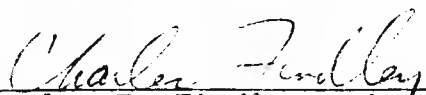
7  
8 10. By written submission of a stipulation by both  
9 parties, any date established in this Order may be modified.

10 11. All written submissions pursuant to this Order  
11 shall be made to:

12 Kenneth Feigner, Chief  
13 Waste Management Branch, M/S 533  
14 Environmental Protection Agency  
15 1200 Sixth Avenue  
16 Seattle, Washington 98101

17 12. This Order shall terminate upon the approval of  
18 a delisting petition by EPA at any time prior to the completion  
19 of the Order's provisions.

20 IT IS SO ORDERED, this 21<sup>st</sup> day of November, 1986.

21   
22 Charles E. Findley, Director  
23 Hazardous Waste Division  
24 EPA Region 10  
25  
26  
27  
28